

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

DIRECT MARKETING CONCEPTS, INC., et al.,

Defendants.

Civ. No. 04-11136-GAO

**MOTION FOR LEAVE TO FILE SUPPLEMENTAL MEMORANDUM IN SUPPORT
OF PLAINTIFF FEDERAL TRADE COMMISSION'S MOTION FOR A
MODIFICATION OF THE JUNE 23, 2004 PRELIMINARY INJUNCTION AS TO
DEFENDANTS DIRECT MARKETING CONCEPTS, INC., ITV DIRECT, INC., AND
DONALD W. BARRETT AND REQUEST FOR EXPEDITED TREATMENT**

Plaintiff the Federal Trade Commission ("FTC" or "the Commission") respectfully requests permission to file a Supplemental Memorandum updating the Court on recent developments relevant to the Commission's Motion for a Modification of the June 23, 2004 Preliminary Injunction as to Defendants Direct Marketing Concepts, Inc., ITV Direct, Inc., and Donald W. Barrett and Request for Expedited Treatment ("Motion for Modification of the Preliminary Injunction").

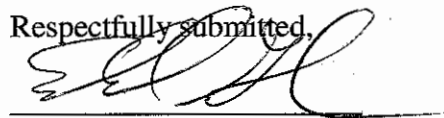
The Commission filed its Motion for Modification of the Preliminary Injunction on May 26, 2005. Defendants Direct Marketing Concepts, Inc. ("DMC"), ITV Direct, Inc. ("ITV"), and Donald W. Barrett ("Barrett") filed an Opposition on June 9, and the Commission filed a Reply Memorandum on June 24. On July 25, 2005, the Court held a status conference, during which a hearing on the Commission's Motion was scheduled for September 20, 2005.

Since the filing of the Commission's Reply Memorandum, Defendants DMC, ITV, Barrett, and Robert Maihos have launched a new infomercial that not only makes disease

prevention and treatment claims for yet another ingestible product, but violates the Preliminary Injunction entered by this Court last year. Furthermore, ITV Direct's trade association has taken several significant actions as a result of the Defendants' actions concerning the Sea Vegg infomercial, including expelling ITV Direct from its membership. These events provide additional evidence that a receiver must be appointed over DMC and ITV in order to ensure adherence to the law.

Accordingly, the Commission respectfully requests that the Court permit it to file a Supplemental Memorandum to its Motion for Modification of the Preliminary Injunction, in order that it may fully inform the Court of these recent developments. A proposed Order is attached.

Respectfully submitted,



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Dated: August 24, 2005